

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding Section
5 5-1062.3 as follows:

6 (55 ILCS 5/5-1062.3 new)

7 Sec. 5-1062.3. Stormwater management; Peoria.

8 (a) The purpose of this Section is to allow management and
9 mitigation of the effects of urbanization on stormwater
10 drainage in Peoria County and references to "county" in this
11 Section apply only to that county. The purpose of this Section
12 shall be achieved by:

13 (1) Consolidating the existing stormwater management
14 framework into a united, countywide structure.

15 (2) Setting minimum standards for floodplain and
16 stormwater management.

17 (3) Preparing a countywide plan for the management of
18 stormwater runoff, including the management of natural and
19 man-made drainageways. The countywide plan may incorporate
20 watershed plans.

21 (b) A stormwater management planning committee may be
22 established by county board resolution, with its membership
23 consisting of equal numbers of county board and municipal

1 representatives from each county board district, and such other
2 members as may be determined by the county and municipal
3 members. The county board may by ordinance divide the county
4 into not less than 6 areas of approximately equal population,
5 to be used instead of county board districts for the purpose of
6 determining representation on the stormwater management
7 planning committee.

8 The county board members shall be appointed by the chairman
9 of the county board. Municipal members from each county board
10 district or other represented area shall be appointed by a
11 majority vote of the mayors of those municipalities that have
12 the greatest percentage of their respective populations
13 residing in that county board district or other represented
14 area. All municipal and county board representatives shall be
15 entitled to a vote; the other members shall be nonvoting
16 members, unless authorized to vote by the unanimous consent of
17 the municipal and county board representatives. A municipality
18 that is located in more than one county may choose, at the time
19 of formation of the stormwater management planning committee
20 and based on watershed boundaries, to participate in the
21 stormwater management planning program of either or both of the
22 counties. Subcommittees of the stormwater management planning
23 committee may be established to serve a portion of the county
24 or a particular drainage basin that has similar stormwater
25 management needs. The stormwater management planning committee
26 shall adopt bylaws, by a majority vote of the county and

1 municipal members, to govern the functions of the committee and
2 its subcommittees. Officers of the committee shall include a
3 chair and vice chair, one of whom shall be a county
4 representative and one a municipal representative.

5 The principal duties of the committee shall be to develop a
6 stormwater management plan for presentation to and approval by
7 the county board, and to direct the plan's implementation and
8 revision. The committee may retain engineering, legal, and
9 financial advisors and inspection personnel. The committee
10 shall meet at least quarterly and shall hold at least one
11 public meeting during the preparation of the plan and prior to
12 its submittal to the county board. The committee may make
13 grants to units of local government that have adopted an
14 ordinance requiring actions consistent with the stormwater
15 management plan and to landowners for the purposes of
16 stormwater management, including special projects; use of the
17 grant money must be consistent with the stormwater management
18 plan.

19 The committee shall not have or exercise any power of
20 eminent domain.

21 (c) In the preparation of a stormwater management plan, a
22 county stormwater management planning committee shall
23 coordinate the planning process with each adjoining county to
24 ensure that recommended stormwater projects will have no
25 significant impact on the levels or flows of stormwaters in
26 inter-county watersheds or on the capacity of existing and

1 planned stormwater retention facilities. An adopted stormwater
2 management plan shall identify steps taken by the county to
3 coordinate the development of plan recommendations with
4 adjoining counties.

5 (d) The stormwater management committee may not enforce any
6 rules or regulations that would interfere with (i) any power
7 granted by the Illinois Drainage Code (70 ILCS 605/) to
8 operate, construct, maintain, or improve drainage systems or
9 (ii) the ability to operate, maintain, or improve the drainage
10 systems used on or by land or a facility used for production
11 agriculture purposes, as defined in the Use Tax Act (35 ILCS
12 105/), except newly constructed buildings and newly installed
13 impervious paved surfaces. Disputes regarding an exception
14 shall be determined by a mutually agreed upon arbitrator paid
15 by the disputing party or parties.

16 (e) Before the stormwater management planning committee
17 recommends to the county board a stormwater management plan for
18 the county or a portion thereof, it shall submit the plan to
19 the Office of Water Resources of the Department of Natural
20 Resources for review and recommendations. The Office, in
21 reviewing the plan, shall consider such factors as impacts on
22 the levels or flows in rivers and streams and the cumulative
23 effects of stormwater discharges on flood levels. The Office of
24 Water Resources shall determine whether the plan or ordinances
25 enacted to implement the plan complies with the requirements of
26 subsection (f). Within a period not to exceed 60 days, the

1 review comments and recommendations shall be submitted to the
2 stormwater management planning committee for consideration.
3 Any amendments to the plan shall be submitted to the Office for
4 review.

5 (f) Prior to recommending the plan to the county board, the
6 stormwater management planning committee shall hold at least
7 one public hearing thereon and shall afford interested persons
8 an opportunity to be heard. The hearing shall be held in the
9 county seat. Notice of the hearing shall be published at least
10 once no less than 15 days in advance of the hearing in a
11 newspaper of general circulation published in the county. The
12 notice shall state the time and place of the hearing and the
13 place where copies of the proposed plan will be accessible for
14 examination by interested parties. If an affected municipality
15 having a stormwater management plan adopted by ordinance wishes
16 to protest the proposed county plan provisions, it shall appear
17 at the hearing and submit in writing specific proposals to the
18 stormwater management planning committee. After consideration
19 of the matters raised at the hearing, the committee may amend
20 or approve the plan and recommend it to the county board for
21 adoption.

22 The county board may enact the proposed plan by ordinance.
23 If the proposals for modification of the plan made by an
24 affected municipality having a stormwater management plan are
25 not included in the proposed county plan, and the municipality
26 affected by the plan opposes adoption of the county plan by

1 resolution of its corporate authorities, approval of the county
2 plan shall require an affirmative vote of at least two-thirds
3 of the county board members present and voting. If the county
4 board wishes to amend the county plan, it shall submit in
5 writing specific proposals to the stormwater management
6 planning committee. If the proposals are not approved by the
7 committee, or are opposed by resolution of the corporate
8 authorities of an affected municipality having a municipal
9 stormwater management plan, amendment of the plan shall require
10 an affirmative vote of at least two-thirds of the county board
11 members present and voting.

12 (g) The county board may prescribe by ordinance reasonable
13 rules and regulations for floodplain management and for
14 governing the location, width, course, and release rate of all
15 stormwater runoff channels, streams, and basins in the county,
16 in accordance with the adopted stormwater management plan.
17 Land, facilities, and drainage district facilities used for
18 production agriculture as defined in subsection (d) shall not
19 be subjected to regulation by the county board or stormwater
20 management committee under this Section for floodplain
21 management and for governing location, width, course,
22 maintenance, and release rate of stormwater runoff channels,
23 streams and basins, or water discharged from a drainage
24 district. These rules and regulations shall, at a minimum, meet
25 the standards for floodplain management established by the
26 Office of Water Resources and the requirements of the Federal

1 Emergency Management Agency for participation in the National
2 Flood Insurance Program. The Commission may not impose more
3 stringent regulations regarding water quality on entities
4 discharging in accordance with a valid National Pollution
5 Discharge Elimination System permit issued under the
6 Environmental Protection Act.

7 (h) In accordance with, and if recommended in, the adopted
8 stormwater management plan, the county board may adopt a
9 schedule of fees as may be necessary to mitigate the effects of
10 stormwater runoff based on actual costs. The fees shall not
11 exceed the cost of satisfying the onsite stormwater retention
12 or detention requirements of the adopted stormwater management
13 plan. The fees shall be used to finance activities undertaken
14 by the county or its included municipalities to mitigate the
15 effects of urban stormwater runoff by providing regional
16 stormwater retention or detention facilities, as identified in
17 the county plan. The county board shall provide for a credit or
18 reduction in fees for any onsite retention, detention, drainage
19 district assessments, or other similar stormwater facility
20 consistent with the stormwater management ordinance.
21 Developers are exempt from any fees under this Section if the
22 new development satisfies onsite retention or detention
23 pursuant to any other local ordinance addressing erosion,
24 sediment, or stormwater control and Illinois Environmental
25 Protection Agency regulations that place the development into
26 compliance with the National Pollutant Discharge Elimination

1 System (NPDES) permit program at the time of the dedication of
2 public infrastructure. All these fees collected by the county
3 shall be held in a separate fund, and shall be expended only in
4 the watershed within which they were collected.

5 (i) For the purpose of implementing this Section and for
6 the development, design, planning, construction, operation,
7 and maintenance of stormwater facilities provided for in the
8 stormwater management plan, a county board that has established
9 a stormwater management planning committee pursuant to this
10 Section may cause an annual tax of not to exceed 0.20% of the
11 value, as equalized or assessed by the Department of Revenue,
12 of all taxable property in the county to be levied upon all the
13 taxable property in the county or occupation and use taxes of
14 1/10 of one cent. The property tax shall be in addition to all
15 other taxes authorized by law to be levied and collected in the
16 county and shall be in addition to the maximum tax rate
17 authorized by law for general county purposes. The 0.20%
18 limitation provided in this Section may be increased or
19 decreased by referendum in accordance with the provisions of
20 Sections 18-120, 18-125, and 18-130 of the Property Tax Code
21 (35 ILCS 200/).

22 Any revenues generated as a result of ownership or
23 operation of facilities or land acquired with the tax funds
24 collected pursuant to this subsection shall be held in a
25 separate fund and be used either to abate such property tax or
26 for implementing this Section.

1 However, the tax authorized by this subsection shall not be
2 levied until the question of its adoption, either for a
3 specified period or indefinitely, has been submitted to the
4 electors thereof and approved by a majority of those voting on
5 the question. This question may be submitted at any election
6 held in the county after the adoption of a resolution by the
7 county board providing for the submission of the question to
8 the electors of the county. The county board shall certify the
9 resolution and proposition to the proper election officials,
10 who shall submit the proposition at an election in accordance
11 with the general election law. If a majority of the votes cast
12 on the question is in favor of the levy of the tax, it may
13 thereafter be levied in the county for the specified period or
14 indefinitely, as provided in the proposition. The question
15 shall be put in substantially the following form:

16 Shall an annual tax be levied for stormwater management
17 purposes (for a period of not more than years) at a
18 rate not exceeding% of the equalized assessed value
19 of the taxable property of Peoria County?

20 Or this question may be submitted at any election held in the
21 county after the adoption of a resolution by the county board
22 providing for the submission of the question to the electors of
23 the county to authorize use and occupation taxes of 1/10 of one
24 cent:

25 Shall use and occupation taxes be raised for stormwater
26 management purposes (for a period of not more than

1 years) at a rate of 1/10 of one cent for taxable goods in
2 Peoria County?

3 Votes shall be recorded as Yes or No.

4 (j) If the county adopts a property tax in accordance with
5 the provisions in this Section, the stormwater management
6 committee shall offer property tax abatements or incentive
7 payments to property owners who construct, maintain, and use
8 approved stormwater management devices. If the county adopts
9 use and occupation taxes in accordance with the provisions of
10 this Section, the stormwater management committee may offer tax
11 rebates or incentive payments to property owners who construct,
12 maintain, and use approved stormwater management devices. The
13 stormwater management committee is authorized to offer credits
14 to the property tax, if applicable, based on authorized
15 practices consistent with the stormwater management plan and
16 approved by the committee. Expenses of staff of a stormwater
17 management committee that are expended on regulatory project
18 review may be no more than 20% of the annual budget of the
19 committee, including funds raised under subsections (h) and
20 (i).

21 (k) If the county has adopted a county stormwater
22 management plan under this Section it may, after 10 days
23 written notice receiving consent of the owner or occupant,
24 enter upon any lands or waters within the county for the
25 purpose of inspecting stormwater facilities or causing the
26 removal of any obstruction to an affected watercourse. If

1 consent is denied or cannot be reasonably obtained, the county
2 ordinance shall provide a process or procedure for an
3 administrative warrant to be obtained. The county shall be
4 responsible for any damages occasioned thereby.

5 (l) Upon petition of the municipality, and based on a
6 finding of the stormwater management planning committee, the
7 county shall not enforce rules and regulations adopted by the
8 county in any municipality located wholly or partly within the
9 county that has a municipal stormwater management ordinance
10 that is consistent with and at least as stringent as the county
11 plan and ordinance, and is being enforced by the municipal
12 authorities. On issues that the county ordinance is more
13 stringent as deemed by the committee, the county shall only
14 enforce rules and regulations adopted by the county on the more
15 stringent issues and accept municipal permits. The county shall
16 have no more than 60 days to review permits or the permits
17 shall be deemed approved.

18 (m) The county may issue general obligation bonds for
19 implementing any stormwater plan adopted under this Section in
20 the manner prescribed in Section 5-1012; except that the
21 referendum requirement of Section 5-1012 does not apply to
22 bonds issued pursuant to this Section on which the principal
23 and interest are to be paid entirely out of funds generated by
24 the taxes and fees authorized by this Section.

25 (n) The powers authorized by this Section may be
26 implemented by the county board for a portion of the county

1 subject to similar stormwater management needs.

2 (o) The powers and taxes authorized by this Section are in
3 addition to the powers and taxes authorized by Division 5-15;
4 in exercising its powers under this Section, a county shall not
5 be subject to the restrictions and requirements of that
6 Division.

7 Notwithstanding any other rulemaking authority that may
8 exist, neither the Governor nor any agency or agency head under
9 the jurisdiction of the Governor has any authority to make or
10 promulgate rules to implement or enforce the provisions of this
11 amendatory Act of the 95th General Assembly. If, however, the
12 Governor believes that rules are necessary to implement or
13 enforce the provisions of this amendatory Act of the 95th
14 General Assembly, the Governor may suggest rules to the General
15 Assembly by filing them with the Clerk of the House and the
16 Secretary of the Senate and by requesting that the General
17 Assembly authorize such rulemaking by law, enact those
18 suggested rules into law, or take any other appropriate action
19 in the General Assembly's discretion. Nothing contained in this
20 amendatory Act of the 95th General Assembly shall be
21 interpreted to grant rulemaking authority under any other
22 Illinois statute where such authority is not otherwise
23 explicitly given. For the purposes of this paragraph, "rules"
24 is given the meaning contained in Section 1-70 of the Illinois
25 Administrative Procedure Act, and "agency" and "agency head"
26 are given the meanings contained in Sections 1-20 and 1-25 of

1 the Illinois Administrative Procedure Act to the extent that
2 such definitions apply to agencies or agency heads under the
3 jurisdiction of the Governor.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.